

Notice of Allowability

Application No.

09/426,827

Examiner

Sow-Fun Hon

Applicant(s)

MUDAR ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the request for continued examination and amendment filed 11/15/06.
2. ☒ The allowed claim(s) is/are 1 and 3-30.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 11/06
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☒ Other See Continuation Sheet.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 11/15/06 has been entered.

Drawings

2. The examiner notes that the drawings dated 10/25/99 are informal due to the handwritten labels, but are clear enough for publication.

Reasons for Allowance

3. The following is an examiner's statement of reasons for allowance.

4. According to the decision made by the Board of Patent Appeals and Interferences, dated 06/29/06, the closest cited prior art of record, US 4,640,856 fails to teach or suggest a patch bag comprising a heat-shrinkable patch adhered to a heat-shrinkable bag, the heat-shrinkable patch comprising a first heat-shrinkable film and the heat-shrinkable bag comprising a second heat-shrinkable film, the first heat-shrinkable film comprising a blend of: A) ethylene/alpha-olefin copolymer having a density greater than about 0.915 g/cm³, present in an amount of at least about 5 percent, based on a

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total weight of the blend; and B) heterogeneous ethylene/alpha-olefin copolymer having a density of less than about 0.915 g/cm^3 , present in an amount of at least about 21 percent, based on the total weight of the blend; and wherein the ethylene/alpha-olefin copolymer having a density greater than about 0.915 g/cm^3 and heterogeneous ethylene/alpha-olefin copolymer having a density of less than about 0.915 g/cm^3 together make up at least 70 percent of the total weight of the first film, and wherein the patch is adhered to the bag with an adhesive or corona treatment. According to the decision made by the Board of Patent Appeals and Interferences, dated 06/29/06, there is no motivation to combine US 4,640,856 with US 4,755,403 and US 5,562,958.

5. Newly submitted AU-A-11228/88 ('88) teaches a heat-shrinkable patch film (page 3, lines 8-15) comprising a blend wherein the ethylene/alpha-olefin copolymer having a density greater than about 0.915 g/cm^3 is present in an amount of 0-50 percent (LLDPE, page 4, lines 5-10) and the heterogeneous ethylene/alpha-olefin copolymer having a density of less than about 0.915 g/cm^3 is present in an amount of at least 10 percent (VLDPE, page 4, lines 3-10), wherein the example which teaches 35 percent LLDPE and 30 percent VLDPE (Example I, Table I, page 12), which together make up 65 percent, and hence less than 70 percent of the total weight of the film, is used to demonstrate that the blend needs to be present in an amount less than the 65 percent, in relation to the EVA component, in order to provide improved dynamic puncture resistance (Example I, page 15, lines 6-15), and wherein a blend present in an amount of 60 percent is the one which is part of the invention (Example H, page 12, Table I, page 14, lines 21-32). On the other hand, Applicant's specification demonstrates that

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when the heat-shrinkable patch contains the blend in an amount of at least 70 percent of the total weight of the heat-shrinkable patch film, the three indicators of puncture resistance, the impact peak load, the impact energy to break and the indexed energy to break, are improved (Compare Film Nos. 9-10 of Table X, page 46, versus Film Nos. 1-3, Table V, page 36). Thus, Applicant indicates unexpected results over '88 regarding the effect of the amount of the blend on the puncture resistance.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication should be directed to Sow-Fun Hon whose telephone number is (571)272-1492. The examiner can normally be reached Monday to Friday from 10:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached at (571)272-1498. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

S. Hon

Sow-Fun Hon

12/07/06



RENA DYE
SUPERVISORY PATENT EXAMINER

Continuation of Attachment(s) 9. Other: The drawings filed 10/25/99 are accepted by the Examiner.